

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR

Office of the
City Administrator



MEMORANDUM

To: All Agency and Department Heads

From: Allen Y. Lew, City Administrator

Date: April 8, 2011

Re: Allowable District Government Operations in the Event of a Lapse in
Congressional Appropriations

This memorandum is designed to help you plan your agency's operations in the event that the current Continuing Resolution, which provides appropriations authority to the District of Columbia Government, expires without further action by Congress and the President.

The current Continuing Resolution is set to expire on Friday, April 8, 2011. The federal Antideficiency Act ("ADA") restricts the Mayor and other District Government officials from expending or obligating public funds absent an appropriation. Therefore, if a subsequent Continuing Resolution or final Fiscal Year 2011 budget is not enacted, the District will be required by federal law to stop performing government functions that are not exempt from the ADA after that date. ADA-exempt government functions, which may be continued, are generally considered those services that are reasonably related to the safety of human life or the protection of property.

Accordingly, after extensive deliberations and consultations with agency heads and the Attorney General for the District of Columbia, and based on prior opinions of both the United States Attorney General and the Corporation Counsel of the District of Columbia, the District government functions listed in Appendix A are designated as ADA-exempt functions that may continue even if the Congress and President do not approve a new Continuing Resolution before midnight of April 8, 2011. Additional designations may be made by the Mayor or City Administrator on a case-by-case basis.

In addition, employees that are funded through the capital budget may continue to work during a lapse in appropriations, if the capital budget authority funding their positions was approved in the Fiscal Year 2010 Appropriations Act or earlier.

Other District Government functions at this point do not appear to constitute ADA-exempt functions and, as such, will be required to shut down at 12:01 a.m. on Saturday, April 9, 2011.

All persons employed by agencies and entities of the District Government, other than employees performing the ADA-exempt functions designated in this memorandum, will

not be permitted to work — for pay or voluntarily — until Congress and the President extend the Continuing Resolution or approve the District’s appropriations act. As part of this restriction, non-ADA-exempt employees may not use government-issued telecommunications devices (such as Blackberries) to perform work-related functions, nor may non-ADA-exempt employees use remote computers to access the District’s information technology systems (for example, through the use of the VPN system). An exception to this restriction is that non-ADA-exempt employees may use government-issued telecommunications devices to determine whether they must report to work to perform an ADA-exempt function or because the shutdown has ended.

Contracts for goods or services may not continue during a shutdown, unless those goods or services are a necessary component of an exempt function; the performance of non-exempt contracts should be suspended during a shutdown. Similarly, contract employees may not work during a shutdown, unless they are performing an exempt function. Each agency should provide to the Office of Contracting and Procurement (OCP) a list of the agency’s contracts that are necessary for the continuation of an exempt function and a list of the agency’s contracts that are not necessary for the continuation of an exempt function. Based on these lists, OCP will inform each non-exempt contractor that the work on its contract is suspended until further notice. (Each agency with independent procurement authority that does not utilize the services of OCP should directly contact each non-exempt contractor to direct the contractor to suspend services under the non-exempt contract until further notice.)

Please inform your employees of the potential government shutdown and its impact on District government operations and their employment. Please also ensure that each employee is aware of whether he or she is designated as an ADA-exempt employee pursuant to this memorandum. Please also inform your employees that if Congress and the President do not approve a new Continuing Resolution, they should not report to work after Friday, April 8, 2011, if they have not been designated as an ADA-exempt employee. If a non-ADA-exempt employee does show up for work, he or she should be dismissed, pending approval of a new Continuing Resolution or the District appropriations act.

All personnel associated with the ADA-exempt functions designated by this memorandum must report to work for their regularly scheduled hours after April 8, 2011, regardless of whether a new Continuing Resolution or a final Fiscal Year 2011 budget has been approved by Congress and the President.

To determine the status of the Continuing Resolution and District government operations, employees may check the main page of the District government website at www.dc.gov or call 311, starting on Friday, April 8, 2011.

If you have any questions regarding the contents of this memorandum, or if circumstances arise before or during the shutdown period which you believe necessitate additional agency functions or employees being designated as ADA-exempt, please

contact Warren Graves, Chief of Staff in the Office of the City Administrator, at 202-724-5540 (office) or 202-345-7017 (cell).

cc: Chairman and Members of the Council
Chief Financial Officer

APPENDIX A:
District Government Functions that May Continue
During a Federal Government Shutdown
("ADA-Exempt Functions")

[See PowerPoint document]